

**DEPARTMENT OF INSURANCE  
STATE OF CALIFORNIA  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, California 94105**

**RH03030475**

**September 17, 2003**

**INITIAL STATEMENT OF REASONS**

**AMENDMENT TO "PRINCIPALLY AT FAULT" REGULATION**

**INTRODUCTION**

California Insurance Commissioner John Garamendi proposes to amend Title 10, Chapter 5, Subchapter 4.7, Article 4, Section 2632.13(e) of the California Code of Regulations. The existing regulations require insurers, in certain circumstances, to investigate accidents and determine whether an insured was principally at fault for the accident. One purpose of the existing regulations is to set guidelines for how an insurer determines whether a driver was principally at fault in an auto accident. These regulations are mandated by CIC §1861.025(b).

The existing regulations establish that a driver can be considered principally at fault if the driver's actions or omissions were at least 51% of the proximate cause of the accident. The existing regulations also require insurers to ascribe a specific percentage of fault to the driver and to inform the driver of the percentage of fault ascribed to her or him.

If these amendments are adopted the regulations will continue to require insurers to investigate accidents and to apply the 51% threshold when determining whether an insured was principally at fault for an accident. The regulations will also continue to require an insurer to notify an insured of the basis for the insurer's determination that the insured was principally at fault for an accident. The insured will also retain the right to seek reconsideration of the insurer's determination that the insured was principally at fault. However the existing requirements for an insurer to determine a specific percentage by which a driver's fault exceeded the threshold, and to notify an insured of the percentage of fault ascribed, will be eliminated. In addition, the insured's corresponding right to seek reconsideration of the specific percentage of fault ascribed, will be eliminated.

**SPECIFIC PURPOSE OF THE REGULATIONS AND NECESSITY**

The specific purpose of each amendment and the rationale for the Commissioner's initial determination that each amendment is reasonably necessary to carry out the purpose for which it is proposed is set forth below.

Section 2632.13(e)(2).

The amendment to §2632.13(e)(2) deletes the 25 words that require an insurer to determine and notify the insured of the specific percentage of fault ascribed to various drivers in an accident. In order to remove this requirement it is necessary to delete this language.

Section 2632.13(e)(3).

The existing §2632.13(e)(3) permits an insured to seek reconsideration of the insurer's determination of fault for an accident, including the percentage of fault the insurer ascribed to any driver. This amendment retains the insured's right to seek reconsideration of the insurer's determination of fault. However, since the amended §2632.13(e)(2) no longer requires an insurer to determine the percentage of fault, the language specifying that an insured may seek reconsideration of the insurer's determination of the percentage of fault, is deleted. Removing this language is necessary to conform §2632.13(e)(3) to the amended §2632.13(e)(2).

### **IDENTIFICATION OF STUDIES**

The Commissioner has not relied upon technical, theoretical, or empirical studies or reports in proposing these amendments.

### **SPECIFIC ACTIONS, PROCEDURES, TECHNOLOGIES OR EQUIPMENT**

Adoption of these regulations would not mandate the use of specific technologies or equipment or prescribe specific actions or procedures.

### **ALTERNATIVES**

The Commissioner has determined that no reasonable alternative exists to carry out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed amendments.

### **ECONOMIC IMPACT ON BUSINESS**

The Commissioner has initially determined that the proposed amendments will not have a significant adverse economic impact on businesses because all requirements in the amended regulations exist in the current regulations. In fact these amendments merely remove an existing requirement. The Commissioner invites interested parties to comment on whether the proposed amendments will have a significant adverse economic impact on business.